

Professionalism Commission

Second Interim Report of Mentoring Subcommittee

I. Purpose of Mentoring

The purpose of mentoring is for lawyers to provide guidance and counseling to fellow lawyers with less training or experience. The goal of this subcommittee is to evaluate mentoring as a means to promote civility and professional behavior among lawyers by one-on-one communication and interaction between mentors and mentee.

II. Present Efforts to Mentor New Lawyers and Law Students

A. Maryland

1. Maryland State Bar Association

In the spring of 1999, the MSBA established a select committee on mentoring. Based on the recommendations of the subcommittee, the MSBA set up a website that lists names of lawyers in Baltimore City and in each county who agree to serve as mentors. Along with the names of the lawyers are the address, phone number, email address and fax number, along with area of specialty, of each mentor. The website also lists the names of mentors from the J. Franklin Bourne and Monumental Bar Associations. In all, there are 255 names listed.

Lawyers who wish to obtain the help of one of the mentors listed on the MSBA website may choose from five areas:

(1) practical practice and law office management-related issues; (2) issues involving such matters as personnel, escrow, or other accounts; (3) substantive areas of law and related procedural issues; (4) appropriate and professional conduct and how to deal with inappropriate conduct; (5) the importance and means of being involved in Bar and community activities and in developing a support network for an attorney's practice.

(Emphasis supplied.)

To select mentors, the MSBA uses the following criteria:

- Five (5) years of practice (for all active practitioners volunteering to become mentors).
- Exhibit those personal qualities necessary to give sound counsel and advice to others.
- Possess the background and experience necessary to advise and counsel a participant new to the practice of law in Maryland.
- Contribute to the Clients' Security Trust Fund (judges, retired attorneys, and state and local governmental attorneys are exempt, as are prosecutors and public defenders, from making such contributions).

No formal training is provided. New admittees to the bar are given information about the MSBA mentoring program when they attend the mandatory professionalism class. These classes are held twice per year. Once every year, the MSBA's Director of Law Office Management contacts each of the lawyers on the mentoring website to make sure each wishes to continue to serve. There is no formal effort to monitor use of the website.

The MSBA mentoring program focuses exclusively on new lawyers and not upon experienced lawyers who may need mentoring because of unprofessional conduct. The Lawyer's Assistance Program and the Attorney Grievance Commission are regarded as the only resources for "problem" lawyers. Neither the Lawyer's Assistance Program nor the Grievance Commission uses the MSBA's mentor list as a part of their remedial education program.

2. MSBA's Leadership Academy

Presently, there are approximately sixty (60) "fellows" of the Academy. Each year, ten to fifteen new lawyers are selected based on leadership potential and demonstrated

ability. Each of the person selected is assigned a mentor. The mentor meets with the mentee for lunch twice per year, and the mentee is encouraged to contact his/her mentor whenever the need arises due to professional or personal problems.

3. Montgomery County Bar Association

The Montgomery County Bar Association has a mentoring subcommittee made up of approximately forty (40) lawyers who have volunteered their services as mentors. By use of flyers handed out at Bar Association meetings and ads in the Montgomery County Bar Association newsletters, new lawyers are encouraged to request a mentor. When requested by a new lawyer who wants help, the Bar Association matches the new admittee with a mentor. The criteria for the match include geographic convenience and area of specialty. The mentor/mentee relationship is for one year. Currently, there are approximately twenty (20) mentor/mentee relationships.

4. Prince George's County Bar Association

The Prince George's County Bar Association, like the Montgomery County Bar Association, has a mentoring subcommittee. Each September, the Association lists in the Bar Association newsletter numerous specialties (e.g., military law, domestic relations, criminal law, etc.), together with lawyers in those specialties who are willing to serve as mentors. New admittees are advised in the newsletter that if they wish to have a mentor they should contact the chair of the subcommittee. Last year only three (3) persons (approximately) asked for a mentor.

5. Anne Arundel County Bar Association

The Anne Arundel County Bar Association has a mentoring program for new admittees. Experienced lawyers sign up as mentors. New members are asked to enter the mentoring program by filling out a form listing legal specialty, address, etc. The Bar Association matches the new member with a mentor on its list. About fifteen (15) to twenty (20) new lawyers sign up for this program each year.

6. The Maryland Trial Lawyers Association

The Maryland Trial Lawyers Association has a list of approximately fifty (50) lawyers who volunteer as mentors for new members. The program currently is being revamped because of limited participation. The organization hopes, in the future, to do a better job of matching mentors with mentees interested in the same practice specialties.

7. Women's Bar Association

The Women's Bar Association does not have a mentoring program, although a mentoring program has been discussed in the past.

8. Baltimore County Bar Association

The Baltimore County Bar Association ("BCBA") does not have a mentoring program; it does have, however, a Lawyer Assistance Committee that often touches upon issues of professionalism in that it provides guidance and support for troubled attorneys, which can be considered a form of professionalism mentoring. The Committee is similar in mission to the MSBA's Lawyer Assistance Program, although less formal in its procedures. The BCBA's Lawyer Assistance Committee attempts to assist lawyers suffering from mental/emotional, drug, alcohol, family, health, and other personal problems. Most often, members of the committee (who are largely self-selected) are contacted by someone wishing

to report that another lawyer is experiencing these types of problems. These reports are sometimes triggered by the lawyer exhibiting unprofessional behaviors. One or more committee members, if they deem it appropriate, then contact the troubled lawyer and ask to meet to offer support and assistance. Referrals to counseling and treatment, or simply informal guidance, may be offered. Whether the lawyer agrees to participate is totally voluntary. The committee is identified on the BCBA website, which also includes the names and email links of the committee's Chair and Vice-Chair, and information is also provided in BCBA newsletters.

9. Baltimore City Bar Association

The Bar Association of Baltimore City ("BABC") has three programs in which mentoring occur. The Attorney Advisor Program is a special service exclusively for members of the BABC. Experienced attorney advisors volunteer to participate and serve as advisors/mentors to other attorneys. Volunteer attorneys can enroll via the Bar's website and specify three substantive areas in which they are willing to give advice and mentor others. Attorney-to-attorney consultations are up to one-half hour free of charge. The BABC promotes its program in its newsletter and via its website. This program is not as effective as the Bar would like it to be. They have found that many attorneys are reluctant to commit to a long-term undertaking. The Bar will be addressing the lack of effectiveness of this program in its long-range planning efforts.

The Baltimore City Bar Association also offers a Lawyer Helpline for its members. This program is used more frequently than the Attorney Advisor program. There are approximately 45 lawyers who give free, confidential advice to lawyers or help lawyers with

anything related to the practice of law. Here, issues of professionalism are discussed. This volunteer project is designed to provide advice and mentoring to any Baltimore lawyer in need, not just BABC members.

The Baltimore City Bar Association offers an Ethics Hotline, which the Bar believes is its most effective vehicle for mentoring. Two lawyers volunteer to be “on call” each month. This program is advertised in the Bar’s newsletter and in local newspapers.

10. University of Maryland School of Law

The University of Maryland’s mentoring program is run by the Maryland Alumni Association. Law students are encouraged to sign up to be mentees. If they do so, they are assigned a mentor. The mentor is usually, but not always, a recent graduate of the law school. Currently, there are eighty-nine (89) students who have signed up for the program, and one hundred six (106) alumni who have agreed to serve as mentors. As the program presently operates, there is no effort to follow up after the assignments have been made, and no formal effort to determine the usefulness of the program.

11. University of Baltimore School of Law

The University of Baltimore School of Law has two mentoring programs for first-year law students – attorney mentor/mentee relationships and faculty mentor/mentee relationships. The only one here relevant is the Attorney Mentor Program, which comes under the direction of the Office of External and Alumni Relations (EAR). In June or July of each year, the Dean signs letters that go to all incoming first-year law students, explaining the Attorney Mentor Program and encouraging participation. Included with the letter is an application form that inquires as to where the student is from, where the student thinks that

he or she might practice, and the student's interest areas within the law, if known. About one hundred students apply annually. Past mentors are used and new ones are recruited through mailings to alumni. Last year, the program had only sixty-five (65) attorney mentors.

Currently, the program is in the process of partnering with a major law firm to sponsor the Attorney Mentor Program and to create a brochure that might assist the program in recruiting mentors.

During the first-year orientation program, in August, EAR hosts a luncheon for day students and a reception for evening students who have signed up to become mentors. The pairings are made in August and September. In October, there is an orientation breakfast for the mentors and mentees. Both mentors and mentees are encouraged to remain in contact by email and in person (to address, when possible, both academic and non-academic concerns), plus a visit to the mentor's law firm or agency and at least one "job shadowing" experience. In February, there is a midyear reception for mentors and mentees. The Attorney Mentor Program officially lasts for one academic year.

B. District of Columbia

Through the Lawyer Practice Assistance Committee, the Washington, D.C., Bar Association offers mentoring resources rather than a mentoring program. The D.C. Bar calls its mentoring resources a "natural" program as opposed to "planned" program. Although they tried a pilot "planned" mentoring program where they matched lawyers looking for mentors with mentees, it was discontinued due to a lack of participation.

The D.C. Bar's "natural" mentoring program is one where lawyers find their own mentors with guidance from the Bar. Using Ida Abbott's book *The Lawyer's Guide to*

Mentoring, the Lawyer Practice Assistance Committee created an on-line Mentoring Resource Guide. Lawyers interested in having a mentor are encouraged to go to the website and follow the procedures suggested for obtaining a mentor. In addition to tips on finding a mentor and places to locate them, the website offers suggested protocol, topics of discussion, possible activities to build the mentoring relationship, and what to expect from the relationship. Lawyers with questions are encouraged to contact the Lawyers' Assistance Program.

C. Virginia

A decade ago, the Virginia Bar Association investigated having a broad-based mentoring program for the state. After trying the mentoring program on a state level, the Virginia Bar decided to turn the mentoring program over to the local bar association. It was believed that the needs of lawyers in the various counties would be better met if coordinated at the local level.

D. Delaware

Under Delaware Rule 52 each applicant for the admission to the Delaware State Bar must complete a five-month clerkship prior to being admitted to practice law. The clerkship consists of having a preceptor or mentor, who is a member of the bar of Delaware for at least ten (10) years, to vouch for the applicant in his/her completion of the clerkship requirements. The clerkship can be satisfied by working in a law office, as a law clerk for the courts, or through public office employment. Each applicant must complete a list of activities related to the practice of law during the clerkship. In 2004, there were thirty (30) legal assignments to be completed, real estate closures, and a Sheriff's sale. Prior to admission, both the

applicant and the applicant's preceptor must certify to the Board of Bar Examiners that the applicant has completed the required five-month clerkship and list of legal activities. If the applicant is unable to complete the clerkship prior to the December admission ceremony, the applicant must make arrangements with the Delaware Supreme Court to be sworn in individually.

The Delaware State Bar Association offers to its members a "Lawyers Helping Lawyers" program. This is a volunteer program to provide peer help and support to lawyers on a variety of subjects. The program assists new lawyers faced with problems they are not able to solve, lawyers who move from a large firm setting to a small office or open a solo practice, and lawyers who need advice or guidance.

Additionally, the Delaware Bar Association offers a "Lawyers Assistance Program," which was established to assist lawyers who experience problems that interfere with their personal lives or their ability to practice law. The program currently has twenty-five (25) volunteers who assist lawyers in need of assistance. This program is designed primarily for errant lawyers. The volunteer lawyers periodically report back to the disciplinary commission on the errant lawyer's progress..

E. American Inns of Court

The American Inns of Court has chapters in all fifty (50) states. Most chapters have about sixty (60) lawyers. Some, but not all, local chapters have mentoring programs for members of the Inn. For example, the Ginsberg Inn in the District of Columbia has a mentoring committee that assigns more senior lawyers to mentor newer lawyers who are members of the chapter. The goal is

to provide opportunities for development of attorneys' legal knowledge, skills, and professional relationships. More specific goals include: sharing professional values, addressing ethical concerns; addressing practical concerns and problems, assisting with transitions into practice and while in practice; teaching; promoting bar involvement and positive relationships among bar members; improving service to clients; improving the public's perception of the legal profession.

The program works in a fashion similar to the program run by the MSBA's Leadership Academy, described *supra*.

E. Other States

Some state bar associations have created "mentoring round tables." For instance, the Massachusetts Bar Association recruits experienced members of the bar to help newer lawyers by offering them advice in areas of the law that may be unfamiliar to the new lawyer. Mentees are offered the opportunity to meet with mentors at mentoring round tables several times each year. Participants in these round tables meet in an informal atmosphere, and the group collectively tries to resolve concerns and problems of the mentees.

III. Mentoring in Regard to "Problem Lawyers"

The Attorney Grievance Commission in some cases recommends to the Maryland Court of Appeals that an errant lawyer have a mentor to oversee his/her practice for a set period of time. When this remedy is applied, supervision by a mentor is a condition for the continuation of practice.

As far as the subcommittee has been able to ascertain, there is no other existing mentoring program geared to help "problem lawyers."

IV. Selection/Training of Mentors

The bar associations and other organizations we have contacted have no formal program for training mentors. Instead, the organizations contact established, well-respected members of the bar and ask that they volunteer their services as mentors. Those who agree to serve are then placed on lists.

V. Selection of Mentees

Potential mentees are recruited in the case of the Maryland State Bar Association at the twice annual Professionalism Course. The local bar associations contact potential mentees by posting ads in the bar associations' newsletters and/or by announcements made at bar meetings.

VI. Effectiveness of Existing Programs

Our investigation has led us to conclude that the existing formal mentoring programs by the various bar associations are underutilized and, for the most part, only minimally effective. For example, we have selected, at random, a number of lawyers who are listed on the MSBA's list of mentors. Almost unanimously, the attorneys contacted report that, although they have been on the list for several years, no potential mentee has ever contacted them. The problem appears to stem from two factors: (1) lack of widespread knowledge that mentoring programs exist; and (2) reluctance of professionals in need of mentoring to reach out and contact a fellow professional (usually a stranger) to ask for help. Mentoring programs in smaller groups, such as law firms, Inns of Court, Leadership Academies, etc., have greater success. That success is attributable to the fact that (1) the organization takes care in making the pairing of the mentors/mentees; (2) the organization makes sure that the

mentors/mentees meet with one another; and (3) smaller groups inspire confidence and trust between the mentor and mentee.

VII.

Would a mentoring program be effective in promoting the goals of professionalism?

We believe that a program, if properly supervised and administered, could effectively promote the goals of professionalism.

VIII.

A. What type of mentoring program would be most effective?

We have, essentially, three choices: (1) establish a completely new mentoring program with an exclusive focus on the goals of professionalism; (2) attempt to improve the current mentoring program run by the Maryland State Bar Association; or (3) establish the framework for a mentoring program and try to convince local bar associations to implement it.

Although the subcommittee is NOT unanimous in this regard, the majority is of the view that the second choice is most likely to succeed. The major advantage of the second choice is that we would have a ready source of funding and manpower. All agree, however, that the present MSBA program can be improved.

The two central problems with the MSBA program is that it is underutilized and is not well advertised. As a result, many lawyers do not take advantage of the program. This should be remedied.

As now operated, the program is basically passive. Attendees at the Professionalism Course are told about the mentoring program's website and encouraged to select a mentor if

the need for one arises. But as far as we have been able to determine, no meaningful effort is made to convince the soon-to-be-admitted lawyers that taking advantage of the mentoring program will be advantageous to him or her and the profession. This too should change.

B. How will mentees be selected?

Some states, such as Delaware, make mentoring a prerequisite for admission to the Bar. The advantages of a compulsory system are obvious. But in states like Maryland, with at least twelve hundred (1,200) new bar admittees each year, it would be difficult to find and train enough mentors.

Each attendee at the Professionalism Course should be handed a pre-printed form to be completed by the attendee within ten (10) days and returned to the MSBA. The new lawyer should be encouraged to select (and name) someone, within his/her firm or other place of employment, who will serve as a mentor. Solo practitioners should select a mentor from the list of volunteers on the website. The Solo Practice Section of the MSBA could take on the matchmaking responsibility.

It is believed that a proactive approach, such as the one described above, would significantly increase participation in the existing mentoring program.

C. Is there a practical way that errant lawyers can be forced to have a mentor?

Yes. We recommend that judges who witness unprofessional behavior be encouraged to refer errant lawyers to a mentor in lieu of contempt. The judge, not the lawyer, should select the mentor from the MSBA list.

Also, we recommend that the Attorney Grievance Commission be advised as to the availability of MSBA mentors and encouraged to utilize their services in appropriate circumstances.

D. Is training of mentors necessary, and if so, who should do it?

A formal training program for every mentor on the MSBA list would be costly and impractical. Nevertheless, a simple “how to” handbook should be prepared and published by the MSBA and given to each volunteer on the website. There are several excellent books and articles available that would be useful in preparing the handout.

E. How long should mentoring last?

For new lawyers, mentoring should last a minimum of one year. For “errant” lawyers, the mentoring should last as long as needed to remedy the problem(s).

Summary

The American legal system, and the English system upon which it is based, has a long history of mentoring. This tradition has greatly benefitted both the mentees and the legal system.

In larger law firms, as well as in State and County Attorney’s Offices, new lawyers are oftentimes mentored by more experienced attorneys. But many Maryland practitioners do not have the advantage of an in-house mentor. And, at present, the existing bar association mentoring program is underutilized. A strong effort needs to be made to strengthen the existing MSBA program by taking the steps recommended above.

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